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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/575,630

04/13/2006

Marco Cicchitti

2540-1044

1772

466

7590

09/24/2007

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EXAMINER

GUADALUPE, YARITZA

ART UNIT

PAPER NUMBER

2859

MAIL DATE

DELIVERY MODE

09/24/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

3

Office Action Summary

Application No.

10/575,630

Applicant(s)

CICCHITTI, MARCO

Examiner

Yaritza Guadalupe-McCall

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-11, 13, 14, 16 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 6, 7, 12, 15 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 4/13/2006.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 – 5 and 20 are rejected under 35 U.S.C. 102 (b) as being anticipated by King (GB 2,239,832).

With respect to claim 1, King discloses a device for cutting sanitary containers said device comprising a structure having at least a housing portion (10, 19) adapted to receive in engagement at least a sanitary collection container (1) to be cut; cutting means (25) operatively associated to said structure and active at said housing portion (10, 19) to cut at least a structural portion of said sanitary container about a predetermined reference point and according to a closed cutting line (See page 8, lines 6 – 11), characterized in that it further comprises adjustment means (21, 22) operatively associated to said cutting means (25) to determine the amplitude of the structural portion to be removed from said sanitary container along a at least a predetermined direction.

In regards to claim 2, King also discloses a device characterized in that said structure comprises a substantially cylindrical grip portion (18); a cutting plate (12) engaged to one end of said grip portion (38), said cutting plate (12) extending prevalently on a plane that is substantially perpendicular to the axial development of said grip portion (18).

Regarding claim 3, King further teaches a device characterized in that said cutting plate (12) is provided with a bearing surface (14, 15) facing said cutting means (25) and having at least a through opening (outside surface of 16) that is coaxial relative to the grip portion (18), said bearing surface (14, 15) of said cutting plate (12) defining said housing portion (10) of said structure.

With regards to claim 4, King also discloses a device characterized in that said bearing surface (14, 15) is provided with a plurality of cutting grooves (13) co-operating with said cutting means (25) to assure the cutting of the structural portion of said sanitary container, each cutting groove (13) developing around the predetermined reference point substantially parallel relative to each other and according to a substantially circular development line.

In regards to claim 5, King further teaches a device characterized in that said cutting plate (12) and said grip portion (18) are joined in a single piece (As shown in Figure 2).

With respect to claim 20, King also discloses a device characterized in that said structure comprises a substantially cylindrical grip portion (18); a cutting plate (12) engaged to one end of said grip portion (38), said cutting plate (12) extending prevalently on a plane that is substantially perpendicular to the axial development of said grip portion (18).

3. Claims 1 – 5, 8 – 11, 13 – 14, 16 and 18 - 19 are rejected under 35 U.S.C. 102 (b) as being anticipated by Braun (US 6,286,216).

With respect to claim 1, Braun discloses a device for a sheet of material, said device comprising a structure (10) having at least a housing portion (16, 18) adapted to receive in engagement at least a sheet of material (M) to be cut; cutting means (40) operatively associated to said structure and active at said housing portion (16, 18) to cut at least a sheet of material about a predetermined reference point and according to a closed cutting line, characterized in that it further comprises adjustment means (52) operatively associated to said cutting means (40) to determine the amplitude of the structural portion to be removed from said sanitary container along a at least a predetermined direction.

With respect to the intended use, i.e., “for cutting sanitary containers...” : the examiner points out that a preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the structural limitations are able to stand alone. See *In re Hirao* , 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie* , 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *In re Schreiber*, 44 USPQ2d 1429 (Fed. Cir. 1997).

In regards to claim 2, Braun also discloses a device characterized in that said structure comprises a substantially cylindrical grip portion (16); a cutting plate (26) engaged to one end of said grip portion (16), said cutting plate (26) extending prevalently on a plane that is substantially perpendicular to the axial development of said grip portion (16).

Regarding claim 3, Braun further teaches a device characterized in that said cutting plate (26) is provided with a bearing surface (bottom surface) facing said cutting means (40) and having at least a through opening (30) that is coaxial relative to the grip portion (18), said bearing surface of said cutting plate (26) defining said housing portion of said structure.

With regards to claim 4, Braun also discloses a device characterized in that said bearing surface is provided with a plurality of cutting grooves (42) cooperating with said cutting means (40) to assure the cutting of the structural portion of said sanitary container, each cutting groove (42) developing around the predetermined reference point substantially parallel relative to each other and according to a substantially circular development line (See Figure 1).

In regards to claim 5, Braun further teaches a device characterized in that said cutting plate (26) and said grip portion (16) are joined in a single piece (As shown in Figure 3).

With respect to claim 8, Braun discloses a device characterized in that said cutting means (40) comprises at least a support rod (60) operatively engaged to said structure of said device, said support rod (60) developing substantially parallel relative to said cutting plate (26) and being movable between an operative position, in which it is situated near said cutting plate (26), and a non operative position, in which it is distanced from said cutting plate; at least a cutting element (66) operatively associated to said support rod (60), said cutting element (66) engaging a respective cutting groove (42) of said cutting plate (26) when the support rod (60) is situated in the operative position, and disengaging said cutting plate (26), when the support rod (60) is in non operative position.

Regarding claim 9, Braun also shows a device characterized in that said support rod (60) rotatably engages the structure of said device by means of an attachment end (34) fastened to said cutting plate (26), at the predetermined reference point, which is located along the geometric axis of said grip portion (16, 18) so that said support rod (60) and said cutting element (66) are free to rotate integrally around said axis and the reference point itself.

With regards to claim 10, Braun further teaches a device characterized in that said cutting means (40) further comprise a substantially cylindrical actuation pivot (22), rotatably engaged in the grip portion (16, 18) and free to slide axially along said portion to drive the support rod (60) integrally with said cutting element (66) between the operative position and the non operative position, said actuation pivot rigidly engaging the attachment end (34) of said support rod and extending according to a greater measure than the axial development of said grip portion so it projects therefrom both at said cutting plate (26) and at the opposite side therefrom.

In regards to claim 11, Braun discloses a device characterized in that said actuation pivot (22) and said support rod (60) are orthogonally joined in a single piece to constitute a single support element for the cutting element (66).

With respect to claim 13, Braun teaches a device characterized in that said means (52) for adjusting said cutting means (40) comprise at least one cursor (54) operatively engaged to said support rod (60), said cursor (54) being translatable along said support rod between a position of minimum amplitude in which the cursor is positioned near the predetermined reference point, and a position of maximum amplitude, in which the cursor (54) is positioned distant from the predetermined reference point in correspondence with a free end of said support rod, opposite to the attachment end.

Regarding claim 14, Braun also discloses a device characterized in that said adjustment means (52) further comprise a sliding guide (28) to guide said cursor (54) between the positions of minimum and maximum amplitude, said sliding guide (46) being associated to said support rod (60) of said cutting means (40).

With regards to claim 16, Braun further discloses a device characterized in that said cursor (54) comprises a sliding portion (46) operatively engaged to said sliding guide to assure the ability of said cursor to slide between the positions of minimum and maximum amplitude, a portion (62, 64) for supporting said cutting element (66), removably engaged to said sliding portion (46); connecting and locking means (See thread on projection 50 in Figure 2) operatively associated to said sliding and support portions to lock said cursor (54) on said sliding guide in a predetermined position.

In regards to claim 18, Braun shows a device characterized in that said support portion has a substantially plate-like element (46); a substantially parallelepiped engagement element (50) extending centrally from said plate-like element (46) and defining thereon at least a pair of locking surfaces each adapted to engage a respective sliding track (48) of said sliding guide (28), at the opposite side relative to the sliding portion, said engagement element (50) of said support portion being able to be inserted into the through opening of said support rod, defining said sliding guide (28), and engaging the engagement element (50) of said sliding portion ; at least a through opening extending between the plate-like element and the engagement element (See Figure 2).

With respect to claim 19, Braun discloses a device characterized in that said cutting element (66) is integrated in the support portion of said cursor through said plate-like element (46) and said engagement element (50), said cutting element (66) being positioned side by side with respect to the through opening of said support portion (See Figure 2).

Allowable Subject Matter

4. Claims 6 – 7, 12, 15 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 2859

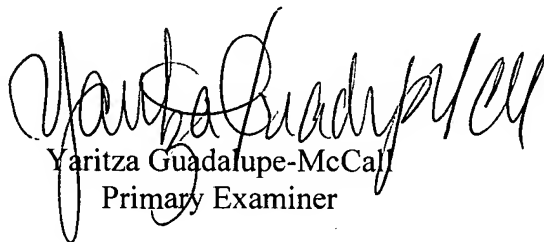
Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe-McCall whose telephone number is (571)272-2244. The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YGM
September 12, 2007
Art Unit 2859


Yaritza Guadalupe-McCall
Primary Examiner